

REMARKS/ARGUMENTS

The final Office Action of March 26, 2007, has been carefully reviewed and these remarks are responsive thereto. Claim 19 has been amended to incorporate the features previously recited in cancelled claim 21. Accordingly, no new matter has been added. Claims 1-17, 19, 20 and 22-52 remain pending. Reconsideration and allowance of the instant application are respectfully requested in view of the following arguments.

Claim Rejections Under 35 U.S.C. §102

Claims 1-5, 8, 9, 16, 17, 19, 20, 22-25, 27-29, 31-34, 36-38, 40, 43-46, 51 and 52 stand rejected under 35 U.S.C. §102(e) as being anticipated by Marko et al. (U.S. Patent No. 6,876,835, "Marko"). This rejection is respectfully traversed for at least the following reasons.

Claim 1 recites, *inter alia*, "receiving, at a mobile terminal, buffered data as a digital broadcast transmission burst in a time-slicing signal, the buffered data corresponding to a first portion of an information stream, said digital broadcast transmission burst having a duration smaller than the duration of said first portion of said information stream." Contrary to the assertions of the Office Action, Marko does not teach or suggest such features. The passage cited by the Office Action as allegedly disclosing these features merely relate to partitioning relatively large files and transmitting the partitions in respective bursts. Col. 2, ll. 14-20. Even so, nowhere does Marko teach or suggest transmitting a portion of an information stream as a transmission burst, wherein the duration of the burst is smaller than the duration of the portion of the information stream. In fact, Applicants respectfully submit that Marko teaches away from the claimed feature of said digital broadcast transmission burst having a duration smaller than the duration of said first portion of said information stream. In particular, Marko discloses, at col. 2, ll. 32-34, that "it would also be advantageous to have the ability to transmit content at a *relatively low bit rate* that can be captured and stored via the local storage device at a receiver for access at a later time." (emphasis added). In contrast, claim 1 recites transmitting data as a transmission burst having a duration smaller than the duration of the data being transmitted (i.e., high bit-rate), rather than transmitting content at a low bit rate. Accordingly, claim 1 is allowable for at least these reasons.

Claims 2-5, 8, 9, 16 and 17 are dependent on claim 1 and are thus allowable for at least the same reasons as claim 1 and further in view of the novel and non-obvious features recited therein.

Amended independent claim 19 recites, *inter alia*, “means for powering up said digital broadcast receiver at a pre-determined powered-up time, wherein the pre-determined powered-up time is synchronized with the reception of the digital broadcast transmission burst and wherein said pre-determined powered-up time occurs at the setting of a flag indicating an almost-empty byte count in said receiver input buffer.” Nowhere does Marko teach or suggest such features. The Office Action even concedes, at p. 7, that Marko fails to disclose such features. Instead, the Office Action relies on Official Notice to cure these deficiencies. In particular, the Office Action asserts that the concept of a power-down flag is well known in the art. Applicants respectfully disagree and request evidence to support such an assertion. Even if taken as true, however, claim 19 recites setting a flag indicating an almost-empty byte count *in said receiver input buffer* wherein the pre-determined powered-up time occurs at the setting of the flag. Marko fails to teach or suggest such a feature and the Official Notice does not cure this deficiency of Marko. Furthermore, the Office Action fails to provide any motivation to combine. The Office Action contends that it would have been obvious for a mobile terminal to have the capability to program sleep and wake-up before and after data has been received from the memory. However, no rationale is provided as to why one of ordinary skill would have been motivated to combine the alleged teachings in the manner asserted. Accordingly, claim 19 is allowable for at least the foregoing reasons.

Claims 20, 22-25 and 27-29 are dependent on claim 19 and are thus allowable for at least the same reasons as claim 19 and further in view of the novel and non-obvious features recited therein.

Claim 31 recites, *inter alia*, “a transmitter system for broadcasting at least a portion of streaming information provided by an information service provider as a digital broadcast transmission burst, said transmitter system including a service input buffer.” Marko fails to teach or suggest such features. Contrary to the assertions of the Office Action, the cited passages do not teach or suggest a transmitter system for broadcasting at least a portion of streaming information provided by an information service provider as a digital broadcast transmission

burst, wherein the transmitter system includes a service input buffer. The cited passage of Marko merely relates to a receiver portion of the digital broadcast system, not a transmitter system. At most, Marko discloses, at col. 4, ll. 4-63, a programming center 20 that may partition large files and transmit those large files in smaller portions through a digital broadcast system. Even so, there is no teaching or suggestion that the programming center includes a service input buffer. Accordingly, claim 31 is allowable for at least these reasons.

Claims 32-34, 36-38, 40 and 43-45 are dependent on claim 31 and are thus allowable for at least the same reasons as claim 31 and further in view of the novel and non-obvious features recited therein.

Claim 46 recites, *inter alia*, “a digital broadcast transmitter for transmitting said streaming information as digital broadcast transmission bursts to a remote mobile terminal at a higher bit rate than the rate at which said streaming information is received from said service provider.” Again, contrary to the assertions of the Office Action, Marko lacks any teaching or suggestion of such features. The Office Action alleges that the digital broadcast system of Marko is inherently a much higher bit rate transmitter/receiver as compared to a mobile terminal. There is no teaching or suggestion in Marko to substantiate such a claim. The cited passage (col. 4, ll. 42-62), merely teaches partitioning a large file and transmitting the file in smaller portions. Even assuming, without conceding, that the Office Action’s allegations are valid, claim 46 recites that the transmission bursts are transmitted at a higher bit rate than the rate at which the streaming information is received from a service provider. Thus, even if Marko’s digital broadcast system is of a higher bit rate than a mobile terminal, there is still no teaching or suggestion that Marko’s transmission bursts are transmitted at a higher bit rate *than the rate at which the information in the transmission burst are received from a service provider*. Claim 46 is thus allowable for at least these reasons.

Claims 51 and 52 are dependent on claim 46 and are thus allowable for at least the same reasons as claim 46 and further in view of the novel and non-obvious features recited therein.

Claim Rejections Under 35 U.S.C. §103

Claims 6, 7, 10, 11, 21, 26, 35 and 39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Marko. This rejection is respectfully traversed for at least the following reasons.

Claims 6, 7, 10, 11, 35 and 39 are dependent on claims 1 and 31, respectively, and thus incorporate all of the features of their respective base independent claim. As discussed above, Marko fails to teach each and every feature of claim 1 and 31. Also as noted above, the Office Action's taking of Official Notice, even if proper, fails to cure the deficiencies of Marko discussed above. Indeed, the Office Action's use of Official Notice is not intended to cure the above identified deficiencies of Marko. Accordingly, claims 6, 7, 10, 11, 35 and 39 are allowable for at least these reasons.

Additionally, claims 6, 7, 10, 11, 21, 26, 35 and 39 disclose returning a receiver to a powered down or up mode in response to the setting of a power-down or power-up flag, respectively, in the receiver's input buffer. The Office Action takes Official Notice that the concept of a power-down flag is well known in the art. As noted above, Applicants respectfully disagree and respectfully request evidence of the features asserted as well known in the Official Notice. Further, also as Applicants discussed above, there is no motivation to combine the alleged teachings in the manner asserted. Significantly, the Office Action fails to provide any motivation as is required under MPEP § 2143. Accordingly, this rejection is respectfully traversed for at least these reasons.

Claims 12-15, 30, 41, 42 and 47-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Marko in view of Fell *et al.* (U.S. Patent No. 6,674,994, "Fell"). This rejection is respectfully traversed for at least the following reasons.

Claims 12-15, 30, 41, 42 and 47-50 are dependent on claims 1, 19, 31 and 46, respectively, and are thus incorporate all of the features of their base independent claims. As discussed above, neither Marko nor the Office Action's taking of Official Notice, either separately or in combination, teaches or suggests each and every limitation of claims 1, 19, 31 and 46. Fell fails to cure the above identified deficiencies of claims 1, 19, 31 and 46. Indeed, Fell is not cited by the Office Action for the deficiencies identified above. At best, Fell relates to scheduling pick-up and delivery of data files using a satellite network. There is no teaching or

suggestion in Fell of powering up or down a receiver in synchronization with transmission bursts. Accordingly, claims 12-15, 30, 41, 42 and 47-50 are allowable for at least these reasons.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned at (202) 824-3156.

Respectfully submitted,
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Dated this 21st day of May, 2007

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